IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELALTE SIDE

APPEAL FROM ORDER NO.871 OF 2005
WITH
CIVIL APPLICATION NO.1029 OF 2005

Deepak S. Patil & Anr. ...Appellants.
Vs.
Balya Walku Sutar since deceased by his heirs
Parvatibai Balya Sutgar & Ors. ...Respondents.

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Mr. P.K. Dhakephalkar with Mr. Amol Mhatre for the Appellants.

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CORAM : DR. D.Y. CHANDRACHUD, J.

November 22, 2005.

P.C.:

The agreement which was entered into between the Appellants, who are the Original Plaintiffs and the First Defendant was conditional on an allotment being made by CIDCO to the First Defendant of a plot under the 12.5% Scheme. In fact, no allotment was made by CIDCO to the First Defendant. The allotment was made by CIDCO to the Third Defendant who was not a party to the agreement with the Plaintiff and there has been a subsequent assignment. The construction, according to the Appellants, is in an advanced stage. In these circumstances, the

refusal of interim relief cannot be faulted. It is needless to add that it would be open to the Appellants to have recourse to their remedies in law including, if they are so advised, to a claim for damages. The appeal is rejected.

In view of the disposal of the appeal, the Civil Application does not survive and is accordingly disposed of.

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